United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED
2016 SEP -6 A 11:27
SUSAN Y. SOONG
CLERK, US DISTRICT COURT
NO. DIST. OF CA.

UNITED STATES OF AMERICA,

V.

CR-13-662 RS

CLIFFORD DALE BERCOVICH and
HOWARD WEBBER

DEFENDANT(S).

SUPERSEDING

INDICTMENT

18 U.S.C. § 1349—Conspiracy;
18 U.S.C. § 1341—Mail Fraud;
18 U.S.C. § 2(b)—Aiding and Abetting;
18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft;
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Forfeiture

A true bill.

Foreman

Filed in open court this 6th day of
Sept., 2016

Clerk

NO PROCESS
SALLIE KIM
United States Magistrate Judge

Bail, $ ____________

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT ☒ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 1349—Conspiracy; 18 U.S.C. § 1341—Mail Fraud; 18 U.S.C. § 2(b)—Aiding and Abetting; 18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft; 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Forfeiture

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See attachment.

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

FILED

SEP -6 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S

HOWARD WEBBER

DISTRICT COURT NUMBER

CR-13-662-RS

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

INTERNAL REVENUE SERVICE

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:
☐ U.S. ATTORNEY ☐ DEFENSE
SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under
MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on this form: BRIAN J. STRETCH

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned): Cynthia Stier, AUSA, Tax Div.

DEFENDANT

IS *NOT* IN CUSTODY

Has not been arrested, pending outcome this proceeding.

1) ☒ If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction } ☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☒ No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount:

If Summons, complete following:
☐ Arraignment ☐ Initial Appearance

Defendant Address:

** Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment*

Date/Time: Before Judge:

Comments:

PENALTY SHEET
UNITED STATES v. HOWARD WEBBER

18 U.S.C. § 1349 - Mail & Wire Fraud Conspiracy
- 20 years' imprisonment
- $250,000 fine
- 5 years' supervised release
- $100 special assessment

18 U.S.C. § 1341 - Mail Fraud
- 20 years' imprisonment
- $250,000 fine
- 5 years' supervised release
- $100 special assessment

18 U.S.C. § 1343 - Wire Fraud
- 20 years' imprisonment
- $250,000 fine
- 5 years' supervised release
- $100 special assessment

18 U.S.C. § 1028A - Aggravated Identity Theft
- 2 years' imprisonment mandatory consecutive to underlying felony
- $250,000 fine
- 2 years' supervised release
- $100 special assessment

Scheme to Commit Mail and Wire Fraud, 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(C)
- Forfeiture

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☒ SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OFFENSE CHARGED

18 U.S.C. § 1349 - Conspiracy; 18 U.S.C. § 1341—Mail Fraud; 18 U.S.C. § 2(b)—Aiding and Abetting; 18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft; 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Forfeiture

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See attachment.

DEFENDANT - U.S

CLIFFORD DALE BERCOVICH

DISTRICT COURT NUMBER
CR-13-662-RS

FILED
SEP - 6 2016
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

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☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

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☐ U.S. ATTORNEY ☐ DEFENSE
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Name and Office of Person Furnishing Information on this form: BRIAN J. STRETCH
☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned): Cynthia Stier, AUSA, Tax Div.

DEFENDANT

IS *NOT* IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive
3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge
5) ☐ On another conviction } ☐ Federal ☐ State
6) ☐ Awaiting trial on other charges
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Or... if Arresting Agency & Warrant were not

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ADDITIONAL INFORMATION OR COMMENTS

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PENALTY SHEET
UNITED STATES v. CLIFFORD BERCOVICH

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- 20 years' imprisonment
- $250,000 fine
- 5 years' supervised release
- $100 special assessment

18 U.S.C. § 1028A - Aggravated Identity Theft
- 2 years' imprisonment mandatory consecutive to underlying felony
- $250,000 fine
- 2 years' supervised release
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Scheme to Commit Mail and Wire Fraud, 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(C)
- Forfeiture

BRIAN J. STRETCH (CABN 163973)
United States Attorney

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SUSAN Y. SOONG
CLERK, US DISTRICT COURT
NO. DIST. OF CA.

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. CLIFFORD DALE BERCOVICH, and HOWARD WEBBER, Defendants.	Case No. CR-13-662-RS VIOLATIONS: 18 U.S.C. § 1349 Conspiracy; 18 U.S.C. § 1341—Mail Fraud; 18 U.S.C. § 2(b)—Aiding and Abetting; 18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft; 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Forfeiture SAN FRANCISCO VENUE

SUPERSEDING INDICTMENT

The Grand Jury charges:

At all times relevant to this Superseding Indictment:

INTRODUCTORY ALLEGATIONS

1. CLIFFORD DALE BERCOVICH ("BERCOVICH") resided in San Rafael, California, in Marin County.

2. HOWARD WEBBER ("WEBBER") was incarcerated in Marin County, California, or Milwaukee, Wisconsin.

3. A "means of identification" includes any name or number that may be used, alone or in conjunction with other information, to identify a specific individual, including a name, address,

telephone number, Social Security number, and date of birth.

4. The Earned Income Credit and the Making Work Pay Credit are refundable federal income tax credits.

5. The Internal Revenue Service ("IRS") is an agency of the United States within the Department of the Treasury of the United States and is responsible for enforcing and administering the tax laws of the United States.

6. The filed federal income tax returns, identified below, were mailed to the Internal Revenue Service in Fresno, California.

7. Introductory Allegations paragraphs 1 through 6 are alleged in each of the following Counts of the Superseding Indictment as though fully set forth therein.

COUNT ONE: (18 U.S.C. § 1349—Conspiracy)

8. Beginning in at least June 2010 and continuing until in or about January 2012, in the Northern District of California and elsewhere, the defendants,

CLIFFORD DALE BERCOVICH and
HOWARD WEBBER,

and others known and unknown to the Grand Jury, knowingly conspired and agreed together and with other persons to commit offenses against the United States, namely (a) mail fraud, in violation of Title 18, United States Code, Sections 1349 and 1341, and (b) wire fraud, in violation of Title 18, United States Code, Sections 1349 and 1343.

The Scheme and Artifice to Defraud

9. In or about June 2010, WEBBER and BERCOVICH discussed preparing federal income tax returns for prison inmates that claimed tax refunds based on the Earned Income Credit and the Making Work Pay Credit.

10. As part of the scheme, BERCOVICH created an information sheet on the letterhead of an entity called "Inmate Assets Recovery and Liquidation Services" ("IARLS"), that BERCOVICH, WEBBER, and other inmates who BERCOVICH and WEBBER recruited, used to solicit personal identifying information from inmates, including Social Security numbers, names, addresses, and dates of birth.

11. WEBBER obtained the personal identifying information of fellow inmates, and transcribed that information onto the information sheets that BERCOVICH created. Thereafter, WEBBER, or an inmate who aided WEBBER, transmitted the information sheets to BERCOVICH.

12. BERCOVICH used the information sheets which contained the inmates' personal identifying information to prepare and file false federal individual income tax returns. The tax returns reported fictitious wages, salaries, and tips, that fraudulently inflated the Earned Income Credit and Making Work Pay Credit claimed on the tax returns.

13. BERCOVICH and WEBBER recruited others to aid in obtaining completed information sheets containing the means of identification of additional IARLS clients.

14. BERCOVICH agreed to pay each recruiter $75 for a completed information sheet which contained information that BERCOVICH could use to file a false return that generated a refund.

15. BERCOVICH used the means of identification of inmates to prepare and file—using the United States Mail and interstate wires—false federal individual income tax returns which claimed fraudulent tax refunds. BERCOVICH filed the false federal income tax returns by paper through the United States Mail and electronically using interstate wires.

16. On or about August 11, 2010, BERCOVICH opened P.O. Box 603, Kentfield, California, and reported P.O. Box 603 as the taxpayers' addresses on the false federal income tax returns he filed in the names of the actual inmates and other IARLS clients.

17. Tax refunds which were generated by the false federal income tax returns that BERCOVICH filed in the names of inmates were mailed by the Department of Treasury to P.O. Box 603, Kentfield, California.

18. BERCOVICH and WEBBER were the sole authorized users for P.O. Box 603, Kentfield, California.

19. On or about October 22, 2010, BERCOVICH opened Wells Fargo bank account xxxx-5270 in the name of "Inmate Assets R and E Services Trust," which was used along with Wells Fargo Bank account xxxx-6054, to deposit some of the fraudulent tax refunds BERCOVICH received from filing false federal income tax returns using inmates' personal identifying information.

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20. BERCOVICH was the sole signatory on Wells Fargo bank account xxxx-5270 and Wells Fargo Bank account xxxx-6054.

21. After depositing the fraudulent tax refunds into Wells Fargo bank account xxxx-5270 and xxxx-6054, BERCOVICH and WEBBER split the IARLS fee of $250 or 25 percent of the fraudulent refund for each corresponding false tax return that was filed with the IRS.

COUNTS TWO THROUGH NINE: (18 U.S.C. §§ 1341 and 2(b)—Mail Fraud)

22. From in or about June 2010, through on or about January 3, 2012, in the Northern District of California and elsewhere, for the purpose of executing the scheme described above, defendants,

CLIFFORD DALE BERCOVICH and
HOWARD WEBBER,

with the intent to defraud, devised or willfully participated in, with knowledge of its fraudulent nature, the above-described scheme and artifice to defraud and obtain money or property by materially false and fraudulent pretenses, representations, and promises.

23. On or about the dates listed below, in the Northern District of California and elsewhere, for the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, BERCOVICH knowingly caused to be delivered by mail, according to the direction thereon, and at the place at which it is directed to be delivered to the person to whom it is addressed, the federal income tax returns listed below.

Count	Mailing Date (on or about)	Description
2	November 14, 2011	2009 Federal Income Tax Return for J.T.
3	November 14, 2011	2009 Federal Income Tax Return for P.O.
4	November 10, 2011	2009 Federal Income Tax Return for N.C.
5	November 16, 2011	2008 Federal Income Tax Return for L.C.
6	November 16, 2011	2009 Federal Income Tax Return for L.C.
7	December 15, 2011	2010 Federal Income Tax Return for L.C.
8	November 21, 2011	2008 Federal Income Tax Return for R.A.
9	January 3, 2012	2010 Federal Income Tax Return for R.A.

All in violation of Title 18, United States Code, Sections 1341 and 2.

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COUNTS TEN THROUGH TWELVE: (18 U.S.C. §§ 1341 and 2(b)—Mail Fraud)

24. From in or about June 2010, through on or about January 3, 2012, in the Northern District of California and elsewhere, for the purpose of executing the scheme described above, defendant,

CLIFFORD DALE BERCOVICH,

with the intent to defraud, devised or willfully participated in, with knowledge of its fraudulent nature, the above-described scheme and artifice to defraud and obtain money or property by materially false and fraudulent pretenses, representations, and promises.

25. On or about the dates listed below, in the Northern District of California and elsewhere, for the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, BERCOVICH knowingly caused to be delivered by mail, according to the direction thereon, and at the place at which it is directed to be delivered to the person to whom it is addressed, the federal income tax returns listed below.

Count	Mailing date (on or about)	Description
10	November 16, 2011	2008 Federal Income Tax Return for J.J.
11	November 16, 2011	2009 Federal Income Tax Return for J.J.
12	December 15, 2011	2010 Federal Income Tax Return for J.J.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS THIRTEEN THROUGH TWENTY-THREE: (18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft)

26. On or about the dates identified below, within the Northern District of California, the defendant,

CLIFFORD DALE BERCOVICH,

during and in relation to a felony violation of Title 18, United States Code, Section 1341, knowingly transferred, possessed, and used without lawful authority a means of identification of another person during and in relation to the offenses in this Superseding Indictment identified as related counts below, that is, he knowingly transferred, possessed, and used the names and Social Security numbers of actual persons, listed by their initials below, to commit mail fraud by filing false tax returns requesting refunds in the names of the taxpayers listed below:

Count	Date of Offense (on or about)	Taxpayer listed on return	Related Count
13	November 14, 2011	J.T.	2
14	November 14, 2011	P.O.	3
15	November 10, 2011	N.C.	4
16	November 16, 2011	L.C.	5
17	November 16, 2011	L.C.	6
18	December 15, 2011	L.C.	7
19	November 21, 2011	R.A.	8
20	January 3, 2012	R.A.	9
21	November 16, 2011	J.J.	10
22	November 16, 2011	J.J.	11
23	December 15, 2011	J.J.	12

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and (c)(5).

COUNTS TWENTY-FOUR THROUGH TWENTY-EIGHT: (18 U.S.C. § 1028A(a)(1) and (c)(5)—Aggravated Identity Theft)

27. On or about the dates identified below, within the Northern District of California, the defendant,

HOWARD WEBBER,

during and in relation to a felony violation of Title 18, United States Code, Section 1341, knowingly transferred, possessed and used, without lawful authority a means of identification of another person during and in relation to the offenses in this Superseding Indictment identified as related counts below, that is, he knowingly transferred, possessed, and used the names and Social Security numbers of actual persons, listed by their initials below, to commit mail fraud by filing false tax returns requesting refunds in the names of the taxpayers listed below:

Count	Date of Offense (on or about)	Taxpayer listed on return	Related Count
24	November 14, 2011	J.T.	2
25	November 10, 2011	N.C.	4
26	November 16, 2011	L.C.	5
27	November 16, 2011	L.C.	6
28	December 15, 2011	L.C.	7

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and (c)(5).

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FORFEITURE ALLEGATION (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)—Scheme to Commit Mail Fraud)

28. The factual allegations contained in Counts One through Fourteen are re-alleged and incorporated by reference.

29. Upon conviction of the mail fraud offenses in violation of Title 18, United States Code, Sections 1341 or 1349, set forth in Counts One through Fourteen of this Superseding Indictment, the defendants,

CLIFFORD DALE BERCOVICH
and HOWARD WEBBER,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Sections 1341 or 1349, from the violations.

30. If any of the property described above, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

any and all interest the defendants have in any other property (not to exceed the value of the above forfeitable property) shall be forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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The forfeiture is authorized by Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c); Title 21, United States Code, Section 853(p) and Federal Rule of Criminal Procedure 32.2.

A TRUE BILL

FOREPERSON

Dated: Sept 6, 2016

BRIAN J. STRETCH
United States Attorney

BARBARA J. VALLIERE
Chief, Criminal Division

Approved as to Form

CYNTHIA STIER
Assistant United States Attorney

GREGORY BERNSTEIN
Trial Attorney
United States Department of Justice